

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 4 Refugee Resettlement Program Policy Amendments

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held May 17, 2006, as follows:

May 17, 2006
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on May 17, 2006.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of non-substantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are attached/available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Manual of Policies and Procedures, Division 44 (Standards of Assistance), Chapter 44-100 (Income), Section 44-111 (Payments Excluded or Exempt from Consideration as Income) and Chapter 44-200 (AU Composition and Need), Section 44-211 (Special Needs in CalWORKs); Division 69 (Refugee Program), Chapter 69-200 (Refugee Resettlement Program), Section 69-201 (General Statement), Section 69-202 [United States Citizenship and Immigration Services (USCIS)], Section 69-205 [Eligibility for Refugee Cash Assistance (RCA)], Section 69-207 (Registration, Employment and Employment-Directed Education/Training Requirements), Section 69-208 (Cause Determinations), Section 69-209 (Penalties for Failure or Refusal to Accept Employability Services or Employment), Section 69-210 (Notices and Hearings), Section 69-211 (Aid Payments), Section 69-212 (Overpayment/Underpayment Adjustments and Fraud Referrals), Section 69-213 (Unaccompanied Refugee Minors), Section 69-214 (Termination of Aid), and Section 69-216 (Case Records); Chapter 69-300 (Cuban/Haitian Entrant Program), Section 69-302 (Cuban/Haitian Entrants Status Requirements), Section 69-303 (Time-Eligibility), Section 69-304 (Terminology), and Section 69-305 (Unaccompanied Cuban/Haitian Entrant Minors)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations implement 45 Code of Federal Regulations (CFR) Section 400, Subpart H, Child Welfare Services, in providing services under the Unaccompanied Refugee Minor Program. Proposed regulations reflect Unaccompanied Refugee Minor policies outlined in California's federally-approved State Plan. In accordance with 45 CFR 400.115 and Welfare and Institutions Code Section 300 or Probate Code Section 1500 or 1501, the foster family agency will establish protective legal custody for the child within 30 days of the child's arrival into the location of resettlement. Primary responsibility for the child's welfare is vested in Catholic Charities of San Jose, which ensures that the child receives the full range of child welfare benefits and services as provided to non-refugee children in foster care.

Existing regulations require amendments to provide direction regarding eligibility for certified victims of a severe form of trafficking to receive Refugee Cash Assistance (RCA) benefits. The Trafficking Victims Protection Act (TVPA) of 2000, Public Law (P.L.) 106-386 (8 United States Code 7105(b)(1)) makes victims of a severe form of trafficking of persons eligible for benefits and services to the same extent as refugees. The TVPA was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, P.L. 108-193. The TVPRA also provides that certain family members of trafficking victims are eligible for benefits and services to the same extent as refugees effective December 19, 2003.

These proposed regulations will exempt any income in-kind provided by a private non-profit organization as income. This will make the RCA provision consistent with CalWORKs as required by 45 CFR 400.66(a)(1).

Proposed regulations will also repeal regulations which currently preclude recipients of RCA from receiving homeless assistance. The Office of Refugee Resettlement State Letter SL00-12 announced a substantial policy change that states asylees will be eligible for refugee assistance and services beginning on the date they are granted asylum. Because of the time it normally takes for an individual to apply for asylum and then proceed through the Immigration and Naturalization Service (INS) (now known as United States Citizenship and Immigration Services (USCIS)) adjudication process, most asylees do not have enough remaining time (of the eight months eligibility) to access

and receive refugee cash and medical assistance and social services. Because asylees do not receive assistance from voluntary agencies, asylees may need homeless assistance. These regulations will allow RCA recipients to receive homeless assistance if they are otherwise eligible.

Existing regulations also require amendments for accuracy and clarification. Many of the amendments incorporate the name change of the INS to reflect the current name of USCIS. Others make grammatical and punctuation amendments that provide for clarity and ease of reading.

COST ESTIMATE

1. Costs or Savings to State Agencies: Only federal funds involved in the servicing of refugees.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Only federal funds involved in the servicing of refugees.
4. Federal Funding to State Agencies: There is currently \$544,394 in federal funds included in the Fiscal Year 2005-06 estimate to serve unaccompanied minors. Victims of trafficking are included in the \$6,097,000 of federal funds serving refugees in the Refugee Cash Assistance Program.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not school districts. There are no “state-mandated local costs” in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by and funded by the federal government.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 300, 10553, 10554, and 45 CFR 400.59(d). Subject regulations implement and make specific The Trafficking Victims Protection Act of 2000 (P.L. 106-386, Section 107(d), (b)(1), (A), (B), and (C)); Homeland Security Act of 2002 (P.L. 107-296, Sections 451 and 471); The Trafficking Victims Protection Reauthorization Act of 2003 (P. L. 108-193); Refugee Resettlement Program (45 CFR 400 et seq.); Cuban/Haitian Entrant Program (45 CFR 401); California State Plan for Refugee/Entrant Assistance and Services 2004-2005 approved by ORR; ORR Statement of Goals, Priorities, Standards, and Guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Program as published in the Federal Register, Vol. 52, No. 198, dated October 14, 1987; ORR State Letter No. 00-12, dated June 15, 2000, Asylee Eligibility for Refugee Resettlement Program Benefits; ORR State Letter No. 01-13, dated May 3, 2001, The Trafficking Victims Protection Act of 2000; ORR State Letter No. 01-27, dated October 2, 2001, Reclassification to Unaccompanied Minor Program; ORR State Letter No. 02-01, dated January 4, 2002, The Trafficking Victims Protection Act of 2000 - Removal of Expiration Dates from Certification Letters for Adults and Eligibility Letters for Children; ORR State Letter No. 02-07, dated March 6, 2002, Reclassification of Unaccompanied Minors; ORR State Letter No. 04-12, dated June 18, 2004, The Trafficking Victims Protection Reauthorization Act of 2003 - Eligibility for Federally Funded or Administered Benefits and Services to the Same Extent as Refugees Extended to Certain Family Members of Victims of a Severe Form of Trafficking in Persons; and Assembly Bill 2635, Statutes of 1987, Chapter 1192.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Robin Garvey	(916) 657-2586
Backup:	Alison Garcia	(916) 657-2586